

ENTERED ON

JUL 31 2006

DOCKET

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	CASE NO. 04-67820-MHM
)	
FIVE STAR DESIGN & BUILDERS,)	CHAPTER 7
LLC,)	
)	
Debtor.)	

)	
JOHN W. RAGSDALE, JR.,)	
Trustee for the Chapter 7)	CONTESTED MATTER
Bankruptcy Estate of Five)	
Star Design & Builders, LLC,)	
)	
Movant,)	
v.)	
)	
LISA M. MICHAS and AARON E.)	
CAILLOUET, Trustee for the Chapter 7)	
Bankruptcy Estate of Lisa M. Michas)	
)	
Respondents.)	

ORDER GRANTING TRUSTEE'S MOTION TO TRANSFER

Hearing was held July 25, 2006, on the Motion by Trustee to transfer to this district the bankruptcy case of Lisa Michas, Case No. 06-10299, filed in the United States Bankruptcy Court for the Eastern District of Louisiana (the "Louisiana Case"). Trustee filed his Motion June 22, 2006; the Order and Notice on Trustee's Motion was entered June 29, 2006; and Trustee served the Order and Notice on Lisa Michas and all creditors and parties in interest to the Louisiana Bankruptcy. No party in interest has filed an objection to the Trustee's Motion.¹

¹ Lisa Michas did file on Friday, July 21, 2006, a motion for continuance and for the undersigned to recuse. That motion was denied by order entered Friday, July 21, 2006, and served upon Lisa Michas by Express Mail.

Bankruptcy Rule 1014(b) provides for transfer of the case of a related debtor filed in a different court:

If petitions commencing cases under the Code are filed in different districts by or against ... (4) a debtor and an affiliate, on motion filed in the district in which the petition filed first is pending and after hearing on notice to the petitioners, the United States trustee, and other entities as directed by the court, the court may determine, in the interest of justice or for the convenience of the parties, the district or districts in which the case or cases should proceed. Except as otherwise ordered by the court in the district in which the petition filed first is pending, the proceedings on the other petitions shall be stayed by the courts in which they have been filed until the determination is made.

“Affiliate” is defined in 11 U.S.C. §101(2):

- (A) entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities--
 - (i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or
 - (ii) solely to secure a debt, if such entity has not in fact exercised such power to vote....

Upon request of Trustee, the Court takes judicial notice of all pleadings, exhibits, and transcripts in the bankruptcy case of Five Star Design and Builders, LLC (“Five Star”), and in Adversary No. 05-6626, also pending before this Court, and hereby finds that Lisa Michas is an affiliate² of Five Star Design & Builders LLC (“Debtor”). Most of Michas’ assets and most of Michas’ creditors are located in this district. Five Star’s case had been pending for almost two years before Michas filed the Louisiana Bankruptcy. Therefore, in the interests of justice and efficient administration of the estates of both Five Star and Lisa Michas, transfer of the

² See especially, the order entered March 9, 2005, designating John Michas and Lisa Michas as insiders and principals of Five Star. Also, Five Star’s Statement of Financial Affairs sets forth that John Michas and Lisa Michas each own 50% of Five Star’s stock.

bankruptcy case of Lisa Michas from the Eastern District of Louisiana to this district is appropriate. Accordingly, it is hereby

ORDERED that Trustee's Motion is GRANTED. The Clerk, U.S. Bankruptcy Court for the Northern District of Georgia is DIRECTED to effectuate the transfer the case of *In re Lisa Michas*, Case No. 06-10299 from the Eastern District of Louisiana to the United States Bankruptcy for the Northern District of Georgia, Atlanta Division.

IT IS SO ORDERED this 31st day of July, 2006.



MARGARET H. MURPHY
UNITED STATES BANKRUPTCY JUDGE

Presented by:

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